

REMARKS

INTRODUCTION:

In accordance with the foregoing, claims 1 and 25 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1, 3-21, and 23-26 are pending and under consideration.

REJECTION UNDER 35 U.S.C. §103

In the Office Action, at page 2, item 2, the Examiner rejected claims 1, 3-20, 23, and 26 under 35 U.S.C. §103 (a) as being unpatentable over Filipowski. (U.S. 4,884,626 - hereinafter Filipowski) in view of Dean (U.S. 2,696,775 – hereinafter Dean) and Bradshaw (U.S. 4,331,690 – hereinafter Bradshaw). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicant traverses this rejection and respectfully requests reconsideration.

In the Office Action, at page 3, item 3, the Examiner rejected claims 24 under 35 U.S.C. §103 (a) as being unpatentable over Filipowski in view of Dean, Bradshaw, and Fukada et al. (U.S. 3,470,942 – hereinafter Fukada). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicant traverses this rejection and respectfully requests reconsideration.

In the Office Action, at page 4, item 4, the Examiner rejected claim 21 and 25 under 35 U.S.C. §103 (a) as being unpatentable over Filipowski in view of Dean and Bradshaw and further in view of Eichelberger et al. (U.S. 4,430,557 – hereinafter Eichelberger). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicant traverses this rejection and respectfully requests reconsideration.

As a general matter, to establish a *prima facie* obviousness rejection, the Examiner needs to provide evidence of the existence of individual elements corresponding to the recited limitations, a motivation to combine the individual elements to create the recited invention, and a reasonable expectation of success. (See MPEP, at 2143. – “[t]he teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant’s disclosure.’ In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).”, and at 2143.03 – “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.’ In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).”).

The Examiner asserts that col. 8, lines 41-68 of Filipowski discloses that “...the cold

storage mode is re-activated if food is determined to be present in the cooking cavity after a predetermined period has elapsed after the cooking mode.” Applicant respectfully disagrees.

Additionally, the Examiner asserts, both in the claim rejections and in the response to Applicant's arguments, “[w]hile it is noted that the sensor for determining if food is present used by Filipowski functions by detecting whether the door has been opened, it is specifically used by Filipowski as a sensor to determine whether food is present and thus meets the terms of the claims.” Applicant respectfully disagrees.

Filipowski teaches that “at the end of the cooking phase the oven (microwave and convection) and refrigerator are turned off and the appliance 10 is plac[e]d in the 30 minute ‘Hold’ phase. However, in the event that the oven cabinet door 24 (FIG. 2) is not opened at the end of the 30 minute “Hold” period, as determined by a sensor 24S (FIG. 1) in the cabinet 25, the refrigerator 14 is again activated and subsequently deactivated when the door is subsequently opened.” (Filipowski, col. 8, lines 60-68).

Thus, the device in Filipowski merely determines whether the door has been opened, and does not determine whether food is present, as asserted by the Examiner.

By way of example, if the device disclosed in Filipowski is programmed to operate and then perform a “hold” phase as described, but no food is placed in the cooking chamber 22, the device will operate as programmed, and as long as the door is not opened, the device will activate the refrigerator 14 at the end of the hold period, despite the absence of food.

As another example, if after cooking, the door is opened and only a portion of cooked food is removed, the device in Filipowski will not refrigerate the remaining portion of the cooked food.

Applicant respectfully submits that none of Filipowski, Dean, Bradshaw, Fukada, or Eichelberger, either alone or in combination, discloses or suggests a sensor to determine whether there is food in the cooking cavity, or determining whether cooked food is present in a cooking cavity after a cooking mode has been completed and a first predetermined period has elapsed.

Accordingly, Applicant respectfully submits that the Examiner has failed to provide evidence that the individual elements exist in the prior art, and thus, the Examiner has not provided sufficient evidence to maintain a prima facie obviousness rejection of the claims.

Thus, Applicant respectfully submits that independent claims 1, 6, 11, 18, and 26 patentably distinguish over the cited art, and should be allowable for at least the above-

mentioned reasons. Further, Applicant respectfully submits that claims 3-5, 7-10, 12-16, 19-21, 23, 24, and 25 which ultimately depend from one of independent claims 1, 6, 11, 18, or 26, should be allowable for at least the same reasons as claims 1, 6, 11, 18, and 26, as well as for the additional features recited therein.

CONCLUSION:

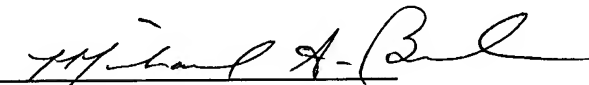
In accordance with the foregoing, Applicant respectfully submits that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,
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Date: September 14, 2005

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